**C.R.No.126/2006**

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

**S.B. CIVIL REVISION PETITION NO.126/2006**

Chhoti Vs. Fajru & Ors.

DATE OF ORDER :: 09/11/2006

**HON'BLE MR. JUSTICE AJAY RASTOGI**

Mr. Mahendra Sharma on behalf of Mr. M.I. Khan, for petitioner

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Instant revision petition has been filed by the defendant-petitioner against the order dated 19th July, 2006 whereby the objections raised by her u/s.47 read with Section 151 CPC were rejected by the learned Executing Court.

Non-petitioner-plaintiff filed a suit for specific performance of contract of agreement dated 26th December, 2005. After notice was served on the defendant-petitioner, the parties entered into compromise and in terms of compromise, the decree was passed by the learned trial Judge on 22nd March, 2006. In terms of decree, the decree-holder filed an application for execution before the learned Executing Court. The petitioner-judgment-debtor filed objections u/s.47 read with Section 151 CPC wherein it was averred that the compromise, which was made to be a part of decree, was a document later on created and got her thumb impression. According to the judgment-debtor, the agreement, which was signed by her, was only in relation to

Khasra No.658 & 795. Learned Executing Court rejected the objections filed by the petitioner on the premise that the agreement has once been entered which has been made to be a part of decree, of which reference has been made in the order dated 22nd March, 2006, which cannot now be looked into at the stage of its execution. If the petitioner was at all aggrieved, she was always free to raise objections when the agreement was made to be a part of decree by the learned trial Judge in his order dated 22nd March, 2006.

Counsel for petitioner submits that the petitioner is an illiterate lady and she was completely misrepresented by making her thumb impression on plain papers and the impression given to her was in relation to Khasra Nos.658 & 795, whereas agreement, which was made to be a part of decree of thumb impression has been made by the learned trial Judge in his order dated 22nd March, 2006 was a created document and was never made known to her. In these circumstances, the finding, which has been recorded by the learned Executing Court in rejecting her objections, is not legally sustainable and requires interference.

I have considered the submission made by the counsel and perused the finding recorded under the order impugned dated 19th July, 2006.

Petitioner has not disputed so far as the thumb impression over the agreement is concerned and indeed the same made to be a part of decree by the

trial Judge, of which reference has been made in the order dated 22nd March, 2006 and if at all the petitioner was aggrieved, she was always free to raise objections when the agreement was made to be a part of decree by the learned trial Judge. Undisputedly, no objections were filed before the learned trial Judge, hence the Executing Court is bound to comply with and execute the decree.

I do not find any substance in the submission made by the counsel and the Executing Court has taken note of the material made available on record and the finding, which has been recorded, in my opinion, does not require interference.

Consequently, the revision petition fails and is hereby dismissed.

**[AJAY RASTOGI],J.**

FRBOHRA,JR.P.A.